

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

SIMON NEWMAN,

Plaintiff,

v.

**CIVIL ACTION NO. 1:07cv121
(Judge Keeley)**

UNITED STATES OF AMERICA,

Defendant.

ROSEBORO NOTICE

On February 26, 2008, the defendant filed a Motion to Dismiss, or in the alternative, Motion for Summary Judgment in answer to the plaintiff's complaint pursuant to the Federal Tort Claims Act. The Court notes that the plaintiff is proceeding pro se. The Court has a mandatory duty to advise the plaintiff of his right to file responsive material, and to alert him to the fact that his failure to so respond might result in the entry of an order of dismissal against him. Davis v. Zahradrich, 600 F.2d 458, 460 (4th Cir. 1979); Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975). The plaintiff is so advised.

Within thirty (30) days of entry of this Order, the plaintiff shall file any opposition explaining why his case should not be dismissed. The plaintiff is advised that he must serve the defendant with any response he files.

IT IS SO ORDERED.

The Clerk of the Court is directed to mail a copy of this Order to the *pro se* plaintiff by certified mail, return receipt requested, to his last known address as shown on the docket sheet. The Clerk of the Court is further directed to provide a copy of this Order to all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Filing in the United States District Court.

DATED: February 27, 2008

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE